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On

February 6, 2007

TOWNSEND and TOWNSEND and CREW LLP

By:

Susan J. Johnson

PATENT  
Docket No.: 2307AA-031220US  
Client Ref. No.: 90-160-5

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Steinunn Baekkeskov et al.

Application No.: 08/838,486

Filed: April 7, 1997

For: IMPROVED METHODS FOR THE  
DIAGNOSIS AND TREATMENT OF  
DIABETES

Customer No.: 20350

Confirmation No. 8923

Examiner: Gerald R. Ewoldt

Technology Center/Art Unit: 1644

Request for Reconsideration of Petition of  
Denial of Entry of Exhibits and Declaration  
under 37 CFR 1.195.

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This paper requests reconsideration of the petition Decision of December 15, 2006.

It is believed that the Decision correctly summarized the long prosecution history of the case insofar as is material to the issue at hand. Moreover, applicants do not quarrel with the Decision's conclusion that under 37 CFR 41.33, the Examiner would have had discretion to refuse to enter the requested evidence.

However, the Decision did not address a key point of applicants' position, namely that the appropriate standard determining entry of the evidence was 37 CFR 1.195 not 37 CFR

41.33. As noted in the petition, the evidence at issue was submitted August 13, 2004,<sup>1</sup> when 37 CFR 1.195 and not 37 CFR 41.33 was in effect. 37 CFR 41.33 did not come into effect until September 13, 2004.

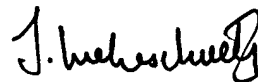
Applicants respectfully submit that the admissibility of evidence should have been determined by the regulation in effect at the time the evidence was submitted (i.e., 37 CFR 1.195). For the reasons given in the petition (which will not be repeated here), applicants respectfully submit that the requested evidence should have been admitted under 37 CFR 1.195.

Applicants do not wish the appeal to be delayed any further regardless of the reconsideration of this petition. Thus, applicants request the Examiner consider the appeal brief filed August 14, 2006 without the evidence, and if this request for reconsideration of the petition is granted that applicants be allowed to submit the requested evidence by a reply brief.

Please charge any fee occasioned by this request for reconsideration to deposit account 20-1430. Please charge any additional amount or credit any overpayment to the same account.

If a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



Joe Liebeschuetz  
Reg. No. 37,505

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Attachments  
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<sup>1</sup> The Decision states that the evidence was submitted August 16, 2004. It is believed that the Decision is referring to the PTO's date of receipt rather than the date of filing but the difference in these dates is not material to the issue at hand.